

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Peter A. Barany et al.	§	Art Unit:	2616
		§		
Serial No.:	09/715,787	§		
		§	Examiner:	Kevin D. Mew
Filed:	November 17, 2000	§		
		§		
For:	Interleaving Data Over Frames	§	Atty. Dkt. No.:	NRT.0072US
	Communicated in a Wireless	§		(12383RRUS02U)
	Channel	§		

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

Applicant acknowledges the allowance of claims 5-12, 14-16, 18-29, 31-33, 37-39, and 41.

Independent claim 1 was rejected as being anticipated by Rostoker. Applicant respectfully submits that the Examiner has committed legal and factual errors in rendering the anticipation rejection of claim 1 over Rostoker. Claim 1 recites a method of interleaving speech data communicated with a particular mobile station over a plurality of frames, comprising:

- receiving, by a system from the particular mobile station in a communications session over a wireless channel, a first set of the speech data, wherein the first set of speech data has been interleaved by the particular mobile station according to a first algorithm over plural frames; and

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- receiving, by the system from the particular mobile station **in the communications session over the wireless channel**, a second set of the speech data, wherein the second set of speech data has been interleaved by the particular mobile station according to a second algorithm over plural frames.

As disclosing the first “receiving” clause of claim 1, the Examiner referred to the GSM branch of the chip 38 depicted in Fig. 3 of Rostoker. As disclosing the second “receiving” clause of claim 1, the Examiner referred to the CDMA/TDMA branch of the chip 38 depicted in Fig. 3.

The chip 38 depicted in Fig. 3 is part of a wireless cellular communication device 36. It is noted that the wireless cellular communication device 36 communicates according to GSM on a GSM channel. Similarly, the wireless cellular communication device communicates according to TDMA on a TDMA channel, and the wireless cellular communication device communicates according to CDMA on a CDMA channel. A GSM channel, TDMA channel, and CDMA channel are channels according to different protocols that have differing characteristics (frequencies, use of code spreading, etc.). According to Rostoker, the different protocols are quite different and therefore would define different types of channels for communications. *See* Rostoker, columns 2-4.

When the GSM branch of the chip 38 depicted in Fig. 3 of Rostoker is used, the wireless cellular communication device 36 would be communicating data over a GSM channel. On the other hand, when the CDMA/TDMA branch of the chip 38 is used, the wireless cellular communication device 36 would be communicating over a CDMA channel or TDMA channel. Therefore, Rostoker cannot satisfy the requirement of claim 1 that a first set of speech data is received from a particular mobile station in a communications session over a wireless channel, and that the second set of the speech data is received by the system from the particular mobile station in **the communications session over the wireless channel**, where the first and second sets of speech data are interleaved according to first and second algorithms, respectively. The different interleaving, GSM interleaving versus CDMA/TDMA interleaving, applied by the chip 38 of Rostoker would apply to speech data over **different** channels and in **different** communications sessions.

In view of the foregoing, it is clear that claim 1 and its dependent claims are not anticipated by Rostoker.

Independent claim 34 was also rejected as being anticipated by Rostoker. Claim 34 recites interleaving a first speech traffic frame in a communications session with a radio network over plural bursts according to a first algorithm, and interleaving a second speech traffic frame in the communications sessions with the radio network over plural bursts according to a second algorithm. Also, claim 34 recites causing the first and second interleaved speech traffic frames to be transmitted to the radio network in the communications sessions.

In Rostoker, communication of differently interleaved speech traffic frames over the same communications session cannot occur, since that would imply that the wireless cellular communications device 36 of Rostoker would be capable of communicating concurrently, in one communications session, over GSM, TDMA, and CDMA channels, which are incompatible protocols. That would not be technically possible.

Therefore, claim 34 is also not anticipated by Rostoker.

Independent claim 36 was rejected as being obvious over Rostoker in view of Hamalainen. The obviousness rejection of claim 36 over Rostoker and Hamalainen is defective for at least the reason that the Examiner has mis-applied Rostoker to the interleaving elements of claim 36. Note that claim 36 recites interleaving a first set of the speech data according to a first algorithm over plural frames for communication over a wireless channel in a communications sessions, and interleaving a second set of the speech data according to a second algorithm over plural frames for communication over the wireless channel in the communications session. As discussed above in connection with claim 1, Rostoker cannot teach performing the different interleavings (GSM versus TDMA/CDMA interleavings) in the chip 38 of Rostoker for speech data in the same wireless channel in the same communications session.

Hamalainen was cited by the Examiner as disclosing a “half-rate traffic channel,” but does not provide any teaching or hint of the interleavings recited by claim 36. Therefore, even if Rostoker were to be hypothetically combined with Hamalainen, the hypothetical combination of Rostoker and Hamalainen would have led to subject matter significantly different from the claimed subject matter.

Therefore, the obviousness rejection of claim 36 is clearly defective.

In view of the allowability of base claims, it is respectfully submitted that the obviousness rejections of dependent claims have also been overcome.

Therefore, withdrawal of all rejections and allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRT.0072US).

Respectfully submitted,

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